

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

LISSA CANAVAN, LESLIE GOLDSMITH and *et*
al.,

Defendants.

Adv. Pro. No. 08-1789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-3200 (BRL)

STIPULATION AND ORDER MODIFYING SCHEDULING

Irving H. Picard, Esq. (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and Bernard L. Madoff, individually, by and through his counsel, Baker & Hostetler LLP, and Defendants Lissa Canavan (“Canavan”), Leslie Goldsmith (“Goldsmith”), and Judith Kalman (“Kalman”) (collectively, the “New Jersey Plaintiffs”), by and through their counsel, Becker & Poliakoff, LLP (collectively, the “Parties”), hereby stipulate and agree as follows:

WHEREAS, on April 9, 2010, the Trustee commenced this adversary proceeding against the New Jersey Plaintiffs by filing a complaint (Dkt No. 1), and also filed an application (“Application”) seeking, *inter alia*, that the Court preliminarily enjoin the New Jersey Plaintiffs from pursuing their putative class action pending in the United States Court for the District of New Jersey, captioned *Canavan, Goldsmith and Kalman v. Harbeck, et al.*, Case No. 10-CV-00954 (D.N.J.) (the “New Jersey Action”).

WHEREAS, on April 14, 2010, this Court entered its Order to Show Cause (the “OSC”) why it should not “deem the New Jersey Action as in violation of the automatic stay provisions of § 362 of the Bankruptcy Code and § 78eee(b)(2)(B)(i) of SIPA and, thus, declare the New Jersey Action to be void *ab initio*” and why the New Jersey Plaintiffs should not otherwise be enjoined. (Dkt No. 5.) Pursuant to the OSC, the Court directed the New Jersey Plaintiffs to file any response or objection by May 3, 2010, and the Trustee to file any reply thereto by May 11, 2010. The OSC set May 18, 2010 as the hearing date on the Trustee’s request for a preliminary injunction (*Id.*)

WHEREAS, also on April 14, 2010, the New Jersey Plaintiffs issued Document Requests to the Trustee (“Document Requests”). The Trustee objects to the Document Requests on various grounds, and the Parties conferred on April 27, 2010 to try to resolve the Trustee’s objection. To date, the Parties have been unable to resolve the matter.

NOW, THEREFORE, IT IS STIPULATED AND AGREED BY AND BETWEEN THE TRUSTEE AND THE NEW JERSEY PLAINTIFFS:

1. A discovery conference in this proceeding will be held on May 10, 2010 at 11:00 a.m. Eastern Time, in accordance with Rule 7007-1(b) of the Local Bankruptcy Rules for the

Southern District of New York (“Discovery Conference”).

2. In advance of the Discovery Conference, the Parties shall each submit a letter to the Court describing the nature of the dispute, with a copy to counsel for the opposing party. The Trustee shall submit his letter by May 3, 2010, and the New Jersey Plaintiffs shall submit their letter by May 5, 2010.

3. The briefing schedule and hearing date set forth in the OSC in connection with the Trustee’s Application shall be re-set and rescheduled based upon the results of the Discovery Conference.

4. Nothing contained herein can or shall be construed as an adjudication on the merits of any claims that the Trustee and/or the New Jersey Plaintiffs may have against each other or any other party, or as an admission or acknowledgement of any claim or defense as against the other by either the Trustee or the New Jersey Plaintiffs, with all such claims and defenses preserved.

s/Peter Smith

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and Judith Kalman, individually and to the
extent they represent a class of those similarly
situated*

s/Keith R. Murphy

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and Bernard L. Madoff*

SO ORDERED this 4th day of May, 2010

/s/ Burton R. Lifland
HONORABLE BURTON R. LIFLAND
UNITED STATES BANKRUPTCY JUDGE